

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

R.M. SANDER, :
Plaintiff, :
v. :
MR. HECTOR and MR. HEATER ELECTRIC :
SPACE HEATER, :
Defendants. :
-----X

RECALLLY FILED

4/21/22

ORDER

21 CV 10684 (VB)

Copies Mailed Faxed 4/21/22
Chambers of Vincent L. Briccetti
OA

Plaintiff, proceeding pro se, has requested an extension of time to file her second amended complaint.

The motion is GRANTED.

Plaintiff shall file her second amended complaint by May 19, 2022, for the reasons explained below.

Plaintiff commenced this action on December 14, 2021, against Mr. Heater Electric Space Heater Manufacturers (“Mr. Heater Electric”), Westchester County, the City of Mount Vernon, and Mr. Hector. (Doc. #1).

By Order to Amend dated December 22, 2021, the Court sua sponte dismissed the case as against Westchester County, the City of Mount Vernon, and Mr. Hector and granted plaintiff leave to file an amended complaint against Mr. Heater Electric only by February 22, 2022. (Doc. #3). The Order to Amend, together with an amended complaint form, was mailed to plaintiff at the address on the docket.

On January 12, 2022, the Court’s mailing was returned and marked “return to sender.”

On February 24, 2022, plaintiff filed an amended complaint against Mr. Hector and Mr. Heater Electric (Doc. #8) as well as a motion for an extension of time to amend her complaint (Doc. #9); she also provided an updated mailing address. (Doc. #6).

On February 25, 2022, the Court granted plaintiff leave to file a second amended complaint in light of the returned mailing and plaintiff's February 24, 2022, submissions. The Court further warned plaintiff, in bold and underlined text, that if she failed to file a second amended complaint by April 26, 2022, absent good cause for her failure to do so, her case could be dismissed. (Doc. #9).

On April 19, 2022, plaintiff moved for an extension of time to file a second amended complaint. (Doc. #11). She requested an extension because (i) she never received any response from defendants; and (ii) because she was in Westchester Medical Center for two months. (*Id.*).

First, defendants are not required to respond to plaintiff until she files her second amended complaint. In the December 22, 2021, Order, the Court instructed that “[a]lthough summonses have issued, no defendant is required to answer at this time.” (Doc. #3, at 6). Thus, defendants' lack of response does not justify an extension.

Second, plaintiff's lengthy hospitalization, however, does justify an extension. Accordingly, plaintiff's motion for an extension is granted.

Plaintiff shall file her second amended complaint by May 19, 2022. A second amended complaint form is attached to this Order. If plaintiff fails to file a second amended complaint in accordance with the Court's Order to Amend by May 19, 2022, and she cannot show good cause to excuse such failure, the case may be dismissed for failure to state a claim upon which relief may be granted and for failure to comply with a court order.

Chambers will mail a copy of this Order to plaintiff at the updated address on the docket.

Dated: April 20, 2022
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

21 CV 10684

(Include case number if one has been assigned)

-against-

**SECOND
AMENDED**

COMPLAINT

Do you want a jury trial?

Yes No

Write the full name of each defendant. If there is not enough space, please write "see attached" and attach an additional sheet of paper. The names listed above should be contained in Section II.

Donna,
As discussed!
Thank for catching!

Sylvia

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

- Federal Question**
- Diversity of Citizenship**

A. If you checked Federal Question

Which of your federal constitutional or federal statutory rights have been violated?

B. If you checked Diversity of Citizenship

1. Citizenship of the parties

Of what State is each party a citizen?

The plaintiff, _____, is a citizen of the State of
(Plaintiff's name)

(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of _____

If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, _____, is a citizen of the State of
(Defendant's name)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of _____.

If the defendant is a corporation:

The defendant, _____, is incorporated under the laws of
the State of _____
and has its principal place of business in the State of _____
or is incorporated under the laws of (foreign state) _____
and has its principal place of business in _____.

If more than one defendant is named in the complaint, attach additional pages providing information for each additional defendant.

II. PARTIES

A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

First Name	Middle Initial	Last Name
Street Address		
County, City	State	Zip Code
Telephone Number	Email Address (if available)	

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1:

First Name	Last Name	
Current Job Title (or other identifying information)		
Current Work Address (or other address where defendant may be served)		
County, City	State	Zip Code

Defendant 2:

First Name	Last Name	
Current Job Title (or other identifying information)		
Current Work Address (or other address where defendant may be served)		
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	
Current Job Title (or other identifying information)		
Current Work Address (or other address where defendant may be served)		
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	
Current Job Title (or other identifying information)		
Current Work Address (or other address where defendant may be served)		
County, City	State	Zip Code

III. STATEMENT OF CLAIM

Place(s) of occurrence: _____

Date(s) of occurrence: _____

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and what each defendant personally did or failed to do that harmed you. Attach additional pages if needed.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

IV. RELIEF

State briefly what money damages or other relief you want the court to order.

V. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated	Plaintiff's Signature	
First Name	Middle Initial	Last Name
Street Address		
County, City	State	Zip Code
Telephone Number	Email Address (if available)	

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

Yes No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.